



JUDICIAL INVESTIGATION COMMISSION

Post Office Box 1629
Charleston, West Virginia 25326-1629
(304) 558-0169 • FAX (304) 558-0831

June 14, 2007

Re: JIC Advisory Opinion 2007-11

Dear Judge

In a letter to this office dated June 5, 2007, you reported an instant involving a member of your staff and an attorney practicing before your court. You indicate that you learned that the attorney had loaned the staff member a certain amount of money. You felt that neither person considered the implications of their actions prior to the loan being made. You were informed about this matter on Monday, June 4. The attorney who made the loan to your staff member is an honest and upstanding member of the Bar and is in the process of closing or substantially winding down her family practice to pursue other opportunities. While there are orders to be entered in your court, there is nothing of substance pending before the court or in which a decision has not already been rendered. To the best of your memory no hearings have been held involving this attorney since the loan was made sometime in the last week or two.

Within five minutes of being informed of the possible loan, you telephoned the lawyer to confirm the loan. She advised that she had made the loan and was very upset and stated that she hadn't thought about any consequences to the court. You recommended that she might get out of all cases pending before you, and she said she would do that immediately if appropriate.

You have not yet discussed the matter with your staff member but stated that you would. You have taken necessary action with counsel and no litigant will be prejudiced by the incident. You asked if there were any obligations to report the lawyer to disciplinary counsel. You inquired whether you had any obligations to report the matter to anyone else. And, you asked whether there were any further duties with regard to this matter.

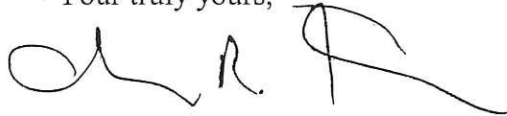
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While I, as counsel, am not authorized to give an advisory opinion on your inquiry, I did provide a copy of your letter to the Chairman of the Judicial Investigation Commission, Judge Fred L. Fox. We discussed the matter, and he asked me to prepare this letter for you.

Given the fact that you immediately took action to limit and/or prevent any repercussions from the loan as soon as you found out about it, you have reacted appropriately in this matter. The fact that there was no conscience effort on the part of the attorney or your staff member to allow the loan to influence or prejudice any of the cases pending before you would suggest that the loan and the implications that may arise from it were not considered before it was made. It would appear that no litigant or party has been prejudiced in any way by this matter. It would also appear that you intend to counsel your staff about the impropriety of any such future similar actions between staff and attorneys who practice before your court. After discussing the matter with the chairman, he felt that no further action needed to be taken by you in this situation.

If you have any further questions regarding this matter, do not hesitate to contact this office.

Your truly yours,

A handwritten signature in black ink, appearing to read 'C. R. Garten', with a stylized flourish at the end.

Charles R. Garten
Judicial Disciplinary Counsel

CRG/bl

cc: The Honorable Fred L. Fox, II
Chairman, Judicial Investigation Commission